

## **Chapter 95.**

### **Department of Labor and Labor Regulations.**

#### **Article 1.**

##### **Department of Labor.**

#### **§ 95-1. Department of Labor established.**

A Department of Labor is hereby created and established. The duties of said Department shall be exercised and discharged under the supervision and direction of a commissioner, to be known as the Commissioner of Labor. (Rev., s. 3909; 1919, c. 314, s. 4; C.S., s. 7309; 1931, c. 312, s. 1.)

#### **§ 95-2. Election of Commissioner; term; salary; vacancy.**

The Commissioner of Labor shall be elected by the people in the same manner as is provided for the election of the Secretary of State. The term of office of the Commissioner of Labor shall be four years, and the salary of the Commissioner of Labor shall be set by the General Assembly in the Current Operations Appropriations Act. Any vacancy in the office shall be filled by the Governor, until the next general election. The office of the Department of Labor shall be kept in the City of Raleigh and shall be provided for as are other public offices of the State. In addition to the salary set by the General Assembly in the Current Operations Appropriations Act, longevity pay shall be paid on the same basis as is provided to employees of the State who are subject to the North Carolina Human Resources Act. (Rev., ss. 3909, 3910; 1919, c. 314, s. 4; C.S., s. 7310; 1931, c. 312, s. 2; 1933, c. 282, s. 5; 1935, c. 293; 1937, c. 415; 1939, c. 349; 1943, c. 499, s. 2; 1947, c. 1041; 1949, c. 1278; 1953, c. 1, s. 2; 1957, c. 1; 1963, c. 1178, s. 5; 1967, c. 1130; c. 1237, s. 5; 1969, c. 1214, s. 5; 1971, c. 912, s. 5; 1973, c. 778, s. 5; 1975, 2nd Sess., c. 983, s. 20; 1977, c. 802, s. 42.11; 1983, c. 761, s. 207; 1983 (Reg. Sess., 1984), c. 1034, s. 164; 1987, c. 738, s. 32(b); 2013-382, s. 9.1(c).)

#### **§ 95-3. Divisions of Department; Commissioner; administrative officers.**

The Department of Labor shall consist of the following officers, divisions and sections:

A Commissioner of Labor.

A Division of Standards and Inspections.

A Division of Occupational Safety and Health.

Each division shall be in the charge of a chief administrative officer and shall be organized under such rules and regulations as the Commissioner of Labor and the head of the division concerned shall prescribe and promulgate. The Commissioner of Labor may make provision for one person to act as chief administrative officer of two or more divisions, when such is deemed advisable. The chief administrative officers of the several divisions shall be appointed by the Commissioner of Labor. The Commissioner of Labor may combine or consolidate the activities of two or more of the divisions of the Department, or provide for the setting up of other divisions when such action shall be deemed advisable for the more efficient and economical administration of the work and

duties of the Department. (1931, c. 277; c. 312, s. 4; 1933, c. 46; 1963, c. 313, s. 2; 2015-221, s. 1.1.)

#### **§ 95-4. Authority, powers and duties of Commissioner.**

The Commissioner of Labor shall be the executive and administrative head of the Department of Labor. In addition to the other powers and duties conferred upon the Commissioner of Labor by this Article, the said Commissioner shall have authority and be charged with the duty:

- (1) To appoint and assign to duty such clerks, stenographers, and other employees in the various divisions of the Department, as may be necessary to perform the work of the Department, and fix their compensation, subject to the approval of the Department of Administration. The Commissioner of Labor may assign or transfer stenographers, or clerks, from one division to another, or inspectors from one division to another, or combine the clerical force of two or more divisions, or require from one division assistance in the work of another division, as he may consider necessary and advisable: Provided, however, the provisions of this subdivision shall not apply to the Industrial Commission, or the Division of Workers' Compensation.
- (2) To make such rules and regulations with reference to the work of the Department and of the several divisions thereof as shall be necessary to properly carry out the duties imposed upon the said Commissioner and the work of the Department.
- (3) To take and preserve testimony, examine witnesses, administer oaths, and under proper restriction enter any public institution of the State, any factory, store, workshop, laundry, public eating house or mine, and interrogate any person employed therein or connected therewith, or the proper officer of a corporation, or file a written or printed list of interrogatories and require full and complete answers to the same, to be returned under oath within 30 days of the receipt of said list of questions.
- (4) To secure the enforcement of all laws relating to the inspection of factories, mercantile establishments, mills, workshops, public eating places, and commercial institutions in the State. To aid him in the work, he shall have power to appoint factory inspectors and other assistants. The duties of such inspectors and other assistants shall be prescribed by the Commissioner of Labor.
- (5) To visit and inspect, personally or through his assistants and factory inspectors, at reasonable hours, as often as practicable, the factories, mercantile establishments, mills, workshops, public eating places, and commercial institutions in the State, where goods, wares, or merchandise are manufactured, purchased, or sold, at wholesale or retail.
- (6) To enforce the provisions of this section and to prosecute all violations of laws relating to the inspection of factories, mercantile establishments, mills, workshops, public eating houses, and commercial institutions in this State before any court of competent jurisdiction. It shall be the duty of the district attorney of the proper district upon the request of the Commissioner of Labor, or any of his assistants or deputies, to prosecute any violation of a law, which

it is made the duty of the said Commissioner of Labor to enforce. (1925, c. 288; 1931, c. 277; c. 312, ss. 5, 6; 1933, cc. 46, 244; 1945, c. 723, s. 2; 1957, c. 269, s. 1; 1973, c. 47, s. 2; c. 108, s. 41; 1991, c. 636, s. 3; 2015-221, s. 1.2.)

**§ 95-5:** Repealed by Session Laws 2015-221, s. 2.1, effective August 18, 2015.

**§ 95-6:** Repealed by Session Laws 2015-221, s. 2.2, effective August 18, 2015.

**§ 95-7. Power of Commissioner to compel the giving of information; refusal as contempt.**

The Commissioner of Labor, or his authorized representative, shall have power to examine witnesses on oath, to compel the attendance of witnesses and the giving of such testimony and production of such papers as shall be necessary to enable him to gain the necessary information. Upon the refusal of any witness to comply with the requirements of the Commissioner of Labor or his representative in this respect, it shall be the duty of any judge of the superior court, upon the application of the Commissioner of Labor, or his representative, to order the witness to show cause why he should not comply with the requirements of the said Commissioner, or his representative, if in the discretion of the judge such requirement is reasonable and proper. Refusal to comply with the order of the judge of the superior court shall be dealt with as for contempt of court. (1931, c. 312, s. 9; 2015-221, s. 2.3.)

**§ 95-8. Employers required to make statistical report to Commissioner; refusal as contempt.**

It shall be the duty of every owner, operator, or manager of every factory, workshop, mill, mine, or other establishment, where labor is employed, to make to the Department, upon blanks furnished by said Department, such reports and returns as the said Department may require, for the purpose of compiling such labor statistics as are authorized by this Article, and the owner or business manager shall make such reports and returns within the time prescribed therefor by said Commissioner, and shall certify to the correctness of the same. Upon the refusal of any person, firm, or corporation to comply with the provisions of this section, it shall be the duty of any judge of the superior court, upon application by the Commissioner or by any representative of the Department authorized by him, to order the person, firm, or corporation to show cause why he or it should not comply with the provisions of this section. Refusal to comply with the order of the judge of the superior court shall be dealt with as for contempt of court. (1931, c. 312, s. 10.)

**§ 95-9. Employers to post notice of laws.**

It shall be the duty of every employer to keep posted in a conspicuous place in every room where five or more persons are employed a printed notice stating the provisions of the law relative to the employment of adult persons and children and the regulation of hours and working conditions. The Commissioner of Labor shall furnish the printed form of such notice upon request. (1933, c. 244, s. 6.)

**§ 95-9.1. Notice of employer's rights during farm inspections.**

The Department of Labor shall, in consultation with farm organizations and the Department of Agriculture and Consumer Services, prepare a notice to be delivered to the employer, at the beginning of an inspection of any premises engaged in agricultural employment in this State. The notice shall advise the employer of any rights or recourse to which the employer and employees are entitled under State or federal law in connection with any inspection of the employer's premises or operation conducted by the Department of Labor. The Department shall deliver the notice to the employer at the beginning of an inspection of premises used for agricultural employment. For purposes of this section, the term "agricultural employment" shall have the same meaning as defined in G.S. 95-223(1). (2012-187, s. 10.1(b).)

**§ 95-10. Repealed by Session Laws 1963, c. 313, s. 1.**

**§ 95-11:** Repealed by Session Laws 2015-221, s. 2.4, effective August 18, 2015.

**§ 95-12:** Repealed by Session Laws 2015-221, s. 2.5, effective August 18, 2015.

**§ 95-13. Enforcement of rules and regulations.**

In the event any person, firm or corporation shall, after notice by the Commissioner of Labor, violate any of the rules or regulations promulgated under the authority of this Article or any laws amendatory hereof relating to safety devices, or measures, the Attorney General of the State, upon the request of the Commissioner of Labor, may take appropriate action in the civil courts of the State to enforce such rules and regulations. Upon request of the Attorney General, any district attorney of the State of North Carolina in whose district such rule or regulation is violated may perform the duties hereinabove required of the Attorney General. (1939, c. 398; 1973, c. 47, s. 2.)

**§ 95-14. Agreements with certain federal agencies for enforcement of Fair Labor Standards Act.**

The North Carolina State Department of Labor may and it is hereby authorized to enter into agreements with the Wage and Hour Division, and the Children's Bureau, United States Department of Labor, for assistance and cooperation in the enforcement within this State of the act of Congress known as the Fair Labor Standards Act of 1938, approved June 25, 1938, and is further authorized to accept payment and/or reimbursement for its services as provided by said act of Congress. Any such agreement may be subject to the regulations of the administrator of the Wage and Hour Division, or the chief of the Children's Bureau of the United States Department of Labor, as the case may be, and shall be subject to the approval of the Director of the State Budget. Nothing in this section shall be construed as authorizing the State Department of Labor to spend in excess of its appropriation from State funds, except to the extent that such excess may be paid and/or reimbursed to it by the United States Department of Labor. All payments received by the State Department of Labor under this section shall be deposited in the State treasury and are hereby

appropriated to the State Department of Labor to enable it to carry out the agreements entered into under this section. (1939, c. 245.)

**§ 95-14.1:** Repealed by Session Laws 2011-145, s. 12.1, effective July 1, 2011.